

By: Grav

H.B. No. 1569

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Texas Department of
Licensing and Regulation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 51.202(a), Occupations Code, is amended
to read as follows:

(a) The commission shall set fees, in amounts reasonable and
necessary to cover the costs of administering the programs or
activities, for:

- (1) licenses issued by the department;
- (2) license renewals and late renewals;
- (3) examinations;
- (4) continuing education; and
- (5) [4] any other program or activity administered by
the department for which a fee is authorized.

SECTION 2. Subchapter D, Chapter 51, Occupations Code, is
amended by adding Section 51.209 to read as follows:

Sec. 51.209. SUBPOENA. (a) The commission or executive
director may request and, if necessary, compel by subpoena:

- (1) the production for inspection and copying of
records, documents, and other evidence relevant to the
investigation of an alleged violation of this chapter, a law
establishing a regulatory program administered by the department,
or a rule adopted or order issued by the commission or executive

1 director; and

2 (2) the attendance of a witness for examination under
3 oath.

4 (b) A subpoena may be issued throughout the state and may be
5 served by any person designated by the commission or executive
6 director.

7 (c) The department, acting through the attorney general,
8 may bring an action to enforce a subpoena issued under this section
9 against a person who fails to comply with the subpoena.

10 (d) Venue for an action brought under this section is in a
11 district court in:

12 (1) Travis County; or

13 (2) any county in which the department may hold a
14 hearing.

15 (e) The court shall order compliance with the subpoena if
16 the court finds that good cause exists to issue the subpoena.

17 (f) The authority of the commission or executive director to
18 issue a subpoena under this section may not be delegated to another
19 person.

20 SECTION 3. Section 51.353, Occupations Code, is amended to
21 read as follows:

22 Sec. 51.353. LICENSE REFUSAL; ADMINISTRATIVE SANCTIONS.

23 (a) The commission shall revoke, suspend, or refuse to issue or
24 renew a license or shall reprimand a license holder for a violation
25 of this chapter, a law establishing a regulatory program
26 administered by the department, or a rule or order of the commission
27 or executive director.

1 (b) The commission may probate the suspension of a [~~place on~~
2 ~~probation a person whose~~] license [~~is suspended~~]. If a license
3 suspension is probated, the commission may require the person to:

4 (1) report regularly to the department on matters that
5 are the basis of the probation;

6 (2) limit practice to the areas prescribed by the
7 commission; or

8 (3) continue or renew professional education until the
9 person attains a degree of skill satisfactory to the commission in
10 those areas that are the basis for the probation.

11 SECTION 4. Subchapter G, Chapter 51, Occupations Code, is
12 amended by adding Sections 51.355 and 51.356 to read as follows:

13 Sec. 51.355. CEASE AND DESIST ORDERS. The executive
14 director may issue a cease and desist order if the executive
15 director determines that the action is necessary to prevent a
16 violation of:

17 (1) this chapter;

18 (2) a law establishing a regulatory program
19 administered by the department; or

20 (3) a rule adopted or order issued by the commission or
21 executive director.

22 Sec. 51.356. EMERGENCY ORDERS. (a) The executive director
23 may issue an emergency order, including an order to suspend or
24 revoke a license or to cease operation of unsafe equipment,
25 including an unsafe elevator or unsafe boiler, if the executive
26 director determines that an emergency exists requiring immediate
27 action to protect the public health and safety.

1 (b) The executive director may issue the emergency order
2 with or without notice and hearing as the executive director
3 considers practicable under the circumstances.

4 (c) If an emergency order is issued under this section
5 without a hearing, the executive director shall set the time and
6 place for a hearing conducted by the State Office of Administrative
7 Hearings to affirm, modify, or set aside the emergency order not
8 later than the 10th day after the date the order was issued. The
9 order shall be affirmed to the extent that reasonable cause existed
10 to issue the order.

11 (d) The commission by rule may prescribe procedures for the
12 determination and appeal of an emergency order under this section,
13 including a rule allowing the commission to affirm, modify, or set
14 aside a decision made by the State Office of Administrative
15 Hearings under Subsection (c).

16 (e) A proceeding under this section is a contested case
17 under Chapter 2001, Government Code.

18 SECTION 5. Subchapter H, Chapter 51, Occupations Code, is
19 amended by adding Sections 51.407, 51.408, and 51.409 to read as
20 follows:

21 Sec. 51.407. DEFERRED ADJUDICATION; REFUSAL TO ISSUE OR
22 RENEW LICENSE. The commission may refuse to issue or renew a
23 license if the commission determines that a deferred adjudication
24 makes the person seeking the license unfit for a license.

25 Sec. 51.408. TEMPORARY LICENSE. (a) The commission by rule
26 may provide for the issuance of a temporary license to an applicant
27 who:

1 (1) submits to the executive director an application
2 on a form prescribed by the executive director;

3 (2) meets preliminary qualifications established by
4 commission rule; and

5 (3) pays the required fees.

6 (b) A temporary license expires on the 21st day after the
7 date of issuance and may not be renewed.

8 (c) A temporary license holder is subject to:

9 (1) this chapter;

10 (2) any law applicable to the activity for which the
11 license is required; and

12 (3) any rule or order of the commission or the
13 executive director applicable to the license.

14 Sec. 51.409. EMERGENCY LICENSE. (a) The executive
15 director may issue an emergency license to a person who meets
16 eligibility requirements provided by:

17 (1) a law establishing a regulatory program
18 administered by the department; or

19 (2) a rule adopted to implement this section.

20 (b) The license expires on the date indicated by the
21 executive director, but may not exceed the 90th day after the date
22 of issuance.

23 (c) The emergency license holder may engage in the
24 activities indicated by the type of license only:

25 (1) during a time declared as a state of disaster and
26 the following recovery period; and

27 (2) in an area designated as a disaster area by:

1 (A) the governor; or
2 (B) the presiding officer of a governing body of
3 a political subdivision.

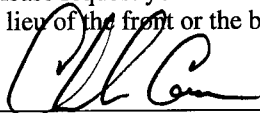
4 SECTION 6. This Act takes effect September 1, 2005.


79TH LEGISLATURE

COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form
in lieu of the front or the back of the original bill)

HB 1569
Bill or Resolution Number:


signature of primary author


printed name of primary author

FEB 24 2005
Date

PERMISSION TO SIGN HB 1569 HAS BEEN GIVEN TO (check only one of the following):
(bill or resolution #)

☒ ALL REPRESENTATIVES
☐ THE FOLLOWING REPRESENTATIVE(S):


I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:

A2100 Allen, Alma	Date	A2435 Coleman	Date	A2800 Escobar	Date
A2115 Allen, Ray	Date	A2450 Cook, Byron	Date	A2795 Farabee	Date
A2125 Alonzo	Date	A2565 Cook, Robert "Robby"	Date	A2810 Farrar	Date
A2150 Anchia	Date	A2595 Corte	Date	A2840 Flores	Date
A2155 Anderson	Date	A2605 Crabb	Date	A2850 Flynn	Date
A2160 Bailey	Date	A2610 Craddick	Date	A2860 Frost	Date
A2170 Baxter	Date	A2640 Crownover	Date	A2920 Gallego	Date
A2205 Berman	Date	A2620 Davis, John	Date	A2960 Gattis	Date
A2220 Blake	Date	A2625 Davis, Yvonne	Date	A2945 Geren	Date
A2230 Bohac	Date	A2635 Dawson	Date	A2935 Giddings	Date
A2250 Bonnen	Date	A2680 Delisi	Date	A2910 Gonzales	Date
A2280 Branch	Date	A3385 Denny	Date	A4660 Gonzalez Toureilles	Date
A2265 Brown, Betty	Date	A2690 Deshotel	Date	A2985 Goodman	Date
A2270 Brown, Fred	Date	A2705 Driver	Date	A2990 Goolsby	Date
A2255 Burnam	Date	A2665 Dukes	Date	A3010 Griggs	Date
A2295 Callegari	Date	A2660 Dunnam	Date	A3020 Grusendorf	Date
A2290 Campbell	Date	A2650 Dutton	Date	A3045 Guillen	Date
A2490 Casteel	Date	A2770 Edwards	Date	A3035 Haggerty	Date
A2495 Castro	Date	A2775 Eiland	Date	A3050 Hamilton	Date
A2585 Chavez	Date	A2780 Eissler	Date	A2695 Hamric	Date
A2480 Chisum	Date	A2785 Elkins	Date	A3160 Hardcastle	Date

A3165 Harper-Brown	Date	A3540 Laubenberg	Date	A4230 Quintanilla	Date
A3170 Hartnett	Date	A3560 Leibowitz	Date	A4215 Raymond	Date
A3190 Hegar	Date	A3620 Luna	Date	A4236 Reyna	Date
A3140 Herrero	Date	A3715 Madden	Date	A4220 Riddle	Date
A3250 Hilderbran	Date	A3780 Martinez	Date	A4250 Ritter	Date
A3275 Hill	Date	A2835 Martinez Fischer	Date	A4270 Rodriguez	Date
A3305 Hochberg	Date	A3665 McCall	Date	A4350 Rose	Date
A3290 Hodge	Date	A3650 McClendon	Date	A4420 Seaman	Date
A3325 Homer	Date	A3845 McReynolds	Date	A4525 Smith, Todd	Date
A3320 Hope	Date	A3830 Menendez	Date	A4540 Smith, Wayne	Date
A3330 Hopson	Date	A3840 Merritt	Date	A4530 Smithee	Date
A3315 Howard	Date	A3835 Miller	Date	A4550 Solis	Date
A3340 Hughes	Date	A3855 Moreno, Joe	Date	A4505 Solomons	Date
A3355 Hunter	Date	A3860 Moreno, Paul	Date	A4545 Strama	Date
A3360 Hupp	Date	A3870 Morrison	Date	A4570 Swinford	Date
A3375 Isett	Date	A3865 Mowery	Date	A4585 Talton	Date
A3350 Jackson	Date	A3885 Naishtat	Date	A4600 Taylor	Date
A3405 Jones, Delwin	Date	A3895 Nixon	Date	A4630 Thompson	Date
District 121	Date	A3900 Noriega	Date	A4650 Truitt	Date
A3400 Jones, Jesse	Date	A3880 Oliveira	Date	A4685 Turner	Date
A3475 Keel	Date	A3886 Olivo	Date	A4695 Uresti	Date
A3410 Keffer, Bill	Date	A3930 Orr	Date	A4700 Van Arsdale	Date
A3480 Keffer, Jim	Date	A3945 Otto	Date	A4725 Veasey	Date
A3470 King, Phil	Date	A4100 Paxton	Date	A4800 Villarreal	Date
A3465 King, Tracy	Date	A4140 Pena	Date	A4900 Vo	Date
A3495 Kolkhorst	Date	A4160 Phillips	Date	A4995 West	Date
A3485 Krusee	Date	A4180 Pickett	Date	A4985 Wong	Date
A3450 Kuempel	Date	A4185 Pitts	Date	A5005 Woolley	Date
A3510 Laney	Date	A4200 Puente	Date	A5150 Zedler	Date

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By 

relating to the powers and duties of the Texas Department of Licensing and Regulation.

FEB 24 2005

Filed with the Chief Clerk

FEB 28 2005

Read first time and referred to Committee on Licensing & Administrative Procedures

Reported favorably (as amended)
(as substituted)

Sent to Committee on (Calendars)
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)
by a vote of yeas, nays, present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)
(record vote of yeas, nays, present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on _____

Reported favorably _____

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)
(yeas, nays)

Read second time, _____, and passed to third reading by (unanimous consent)
(a viva voce vote)
(yeas, nays)

Senate and Constitutional 3 Day Rules suspended by a vote of yeas, nays

Read third time, _____, and passed by a (viva voce vote)
(yeas, nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

_____ Returned from the Senate (as substituted)
(with amendments)

_____ House concurred in Senate amendments by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House refused to concur in Senate amendments and requested the appointment of a conference committee
by a (non-record vote) (record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ House conferees appointed: _____, Chair; _____,
_____, _____, _____

_____ Senate granted House request. Senate conferees appointed: _____, Chair;
_____, _____, _____, _____

_____ Conference committee report adopted (rejected) by the House by a (non-record vote)
(record vote of _____ yeas, _____ nays, _____ present, not voting)

_____ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)
(record vote of _____ yeas, _____ nays)